

HOUSE BILL REPORT

HB 1626

As Reported by House Committee On:
Agriculture & Natural Resources

Title: An act relating to wildlife interactions.

Brief Description: Regarding wildlife interactions.

Sponsors: Representatives Kretz, Blake, Chandler, Warnick, Van De Wege, McCune, Kessler and Ross.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 2/6/09, 2/13/09 [DP].

Brief Summary of Bill

- Recodifies and alters provisions of law regarding crop damage by wildlife.
- Provides for mandatory compensation, within limits, for the owners of commercial crops and livestock that are damaged by certain wildlife species.
- Provides discretionary authority to the Washington Department of Fish and Wildlife to provide non-cash compensation to the owners of property that is not commercial crops or livestock that is damaged by wildlife.
- Designates prerequisites for wildlife damage compensation.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass. Signed by 8 members: Representatives Blake, Chair; Jacks, Vice Chair; Chandler, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Kretz, Ormsby, Pearson and Warnick.

Minority Report: Do not pass. Signed by 2 members: Representatives McCoy and Nelson.

Staff: Jason Callahan (786-7117)

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Damage Compensation.

The owners of a commercial agricultural or horticultural crop may apply to the Washington Department of Fish and Wildlife (WDFW) for payment of damages caused by the browsing of wild deer or elk. Payments are limited to the value of the crop, but are generally capped at \$10,000 per claim. Claims valued over \$10,000 must be filed with the Office of Financial Management, which will forward a recommendation on the claim to the Legislature. Only a landowner that opens his or her land to public hunting is eligible for compensation caused by deer or elk damage.

Unless the Legislature declares an emergency, the WDFW may not pay more than \$150,000 total per year for crop damage claims. The \$150,000 is funded from both the General Fund and the State Wildlife Account.

It is the responsibility of the WDFW to examine and assess the damage upon notification from the claimant, although the WDFW and the claimant can agree to have the damage assessed by a third party. The owner of the damaged crops must report the loss within 10 days of discovery. Any damage payments accepted by the owner represents the exclusive remedy against the state for wildlife-caused damages.

Prevention of Damage.

A landowner has the authority to kill any non-endangered wildlife causing damage on his or her property without first obtaining a license from the WDFW. However, unless an emergency exists, the landowner must obtain a permit from the WDFW. If there is an emergency, the landowner may kill deer or elk with verbal permission from the WDFW.

The WDFW is directed to work closely with landowners to prevent damage and increase harvest when non-lethal prevention does not work. Special hunts are required in instances of recurring complaints.

Summary of Bill:

The provisions of state law dealing with reimbursement to landowners for damage caused by wildlife are recodified and reorganized. In addition, substantive changes are made to state policies regarding wildlife damage.

Damage to Crops and Livestock.

Besides owners of commercial crops damaged by deer or elk, the WDFW is required, subject to funding limits, to compensate owners of commercial livestock that are killed or significantly injured by bears, cougars, or wolves. Each individual claim by a crop or livestock owner is eligible to be paid the value of the lost crop less any payments received by a non-profit organization up to a maximum of \$10,000. For livestock, the compensation is \$200 for each lost sheep and \$1,500 for each lost head of cattle or horse.

Total compensation for the owners of commercial crops generally may not exceed \$150,000 per year, and total compensation for the owners of commercial livestock may not exceed the

amounts specifically appropriated for the purpose. If the Legislature declares an emergency, then the WDFW may pay a cumulative amount in claims limited by specific appropriations.

Damage to Other Property.

The owners of property that does not qualify as commercial crops or livestock may still apply to the WDFW for compensation for damage caused by mammals or birds. However, unlike for crops and livestock, the WDFW is not required to provide compensation, and any compensation provided may not be in the form of monetary payments. Compensation for this class of damage must take the form of materials or services.

Prerequisites for Compensation.

The Fish and Wildlife Commission (Commission) is directed to identify criteria that determine whether damage to property qualifies for compensation. Different criteria may apply to mandatory compensation claims and discretionary claims. For mandatory commercial crop and livestock claims, the criteria must provide for a minimum economic loss. The minimum loss must be set to at least \$500.

Property owners may not receive compensation from the WDFW if they have insurance that provides compensation for the crop loss. Also, they must first exhaust any available compensation offers from non-profit organizations and utilize all applicable legal and practicable self-help preventative measures. Self-help measures include non-lethal methods of damage prevention and materials and services provided by the WDFW.

In addition, owners of commercial crops may only receive cash compensation if they have an annual gross sales or harvest value figure of at least \$10,000. Individuals suffering damage to crops that do not satisfy this threshold are still eligible for non-cash compensation.

The burden of proof in all claims belongs to the claimant.

Process for Being Compensated.

The WDFW is directed to develop a process for a compensation applicant to follow. Elements of the process must include forms of proof, anticipated timelines for decisions from the WDFW, prioritization of claims, a process for determining damage assessments, and protocols for when an owner intends to salvage any still-harvestable crops.

Appeals.

The Commission must develop a procedure for appealing both the denial of claims and the amount offered for accepted claims. If an appeal of the compensation amount is successful, the WDFW is authorized to pay an amount greater than \$10,000.

Preventative Measures.

Upon application by an individual, the WDFW may provide materials and services that help the applicant reduce negative wildlife interactions. The Commission must establish criteria for mitigating actions that are eligible for preventative materials and services.

In addition, the specific statutory provisions relating to when and how a landowner can kill damage-causing wildlife are removed. Landowners may still kill wildlife without licenses, but only under conditions set by the Commission. The conditions must include the

protection of endangered species, the identification of instances when verbal permission is sufficient, and requirements for carcass disposal.

Specific details as to how the WDFW will address recurring damage complaints through special hunts is removed in favor of general authority for the WDFW to authorize the removal of damaging wildlife.

Review of Program.

The Commission must formally review its ability to execute the wildlife interaction provisions and the authority delegated to it. Any recommendations for statutory changes must be forwarded to the 2014 Legislature.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on July 1, 2010, except section 16, relating to commission rulemaking, which takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) The current situation that allows for wildlife to injure or kill livestock with no compensation for the livestock owner is inadequate for the needs of the livestock industry. The WDFW is extremely proprietary with its wildlife until the animals cause damage. The state should bear some responsibility for making landowners whole when wildlife causes damage. There are a number of limits placed on livestock producers in terms of what they can do to protect their investments from wildlife, so it is fair to compensate them when wildlife cannot be properly managed. As the population grows, the number of human-wildlife interactions will only continue to increase.

The proposals in the bill are the work of a citizens' work group arranged by the WDFW. It provides a fresh approach to a long-standing problem with a comprehensive revision to the wildlife damage statutes that makes them organized and streamlined. The proposal also places an appropriate emphasis on non-lethal, self-help measures that a landowner can take.

Landowners other than just farmers will be able to find some relief or assistance, and the WDFW will be authorized to nurture useful partnerships with volunteer groups. The rulemaking in the bill ensures that wildlife conflict policies will have open public review and hearings where the public can provide feedback.

(With concerns) The recommendations of a group discussion on wolf management should be reflected in the bill.

(Opposed) None.

Persons Testifying: (In support) Representative Kretz, prime sponsor; Steve Pozzanghera, Washington Department of Fish and Wildlife; Ed Owens, Hunters Heritage Council; and Jack Field, Washington Cattlemen's Association.

(With concerns) Carey Morris, The Humane Society.

Persons Signed In To Testify But Not Testifying: John Stuhlmiller, Washington Farm Bureau.